



New South Wales

# Valuation of Land Further Amendment Act 1996 No 140

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New South Wales

## **Valuation of Land Further Amendment Act 1996 No 140**

Act No 140, 1996

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An Act to amend the *Valuation of Land Act 1916* to enable valuation services to be carried out under contract let by the Valuer-General and to confer on the Valuer-General certain regulatory and other functions; and for other purposes. [Assented to 16 December 1996]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Valuation of Land Further Amendment Act 1996*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Valuation of Land Act 1916 No 2**

The *Valuation of Land Act 1916* is amended as set out in Schedule 1.

**4 Amendment of other Acts and instruments**

- (1) Each Act and instrument referred to in Schedule 2 is amended as set out in that Schedule.
- (2) The amendment of an instrument by a provision of Schedule 2 does not prevent the future amendment or repeal of that instrument.

**5 Explanatory notes**

The matter appearing under the headings “Explanatory note” in Schedules 1 and 2 does not form part of this Act.

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## Schedule 1 Amendment of Valuation of Land Act 1916

(Section 3)

### [1] Long title

Omit the long title.

Insert instead “An Act to make provision for the valuation of land; to establish the office of Valuer-General; to provide for the appointment of contract valuers; and for other purposes.”.

#### **Explanatory note**

This item amends the long title of the Act so as to reflect the general purpose of the Act in the context of the amendments made by the proposed Act and amendments made by previous Acts.

### [2] Section 4 Definitions

Insert in section 4 (1), in alphabetical order:

*contract* includes an arrangement.

*contract valuer* means a person or body with whom the Valuer-General has a valuation service contract.

*Department* means the Department of Land and Water Conservation.

*Director-General* means the Director-General of the Department.

*exercise* a function includes perform a duty.

*function* includes a duty.

*State Valuation Office* means the State Valuation Office in the Department.

*valuation recommendation* means a recommendation of the kind referred to in section 14B.

*valuation service* means a service involving the provision of valuation recommendations to the Valuer-General for the purposes of Part 2.

*valuation service contract* means a valuation service contract referred to in Part 1A.

#### **Explanatory note**

This item inserts definitions in connection with the other amendments to be made by the proposed Act.

**[3] Section 4 (1), definition of “Supplementary valuation”**

Omit “or 70” from paragraph (a).

Insert instead “or a valuation referred to in section 20 (3) (b)”.

**Explanatory note**

This item is consequential on the proposed repeal of section 70 and the transfer of its provisions to section 20.

**[4] Section 8 Valuer-General**

Insert after section 8 (2):

- (3) Subject to this Act, the Valuer-General has and may exercise the functions conferred or imposed on the Valuer-General by or under this or any other Act or law.
- (4) The general role of the Valuer-General is:
  - (a) to exercise functions with respect to the valuation of land in the State, and
  - (b) to ensure the integrity of valuations under this Act, and
  - (c) to be the custodian of valuation rolls and lists under this Act.
- (5) The Valuer-General may delegate to any person any of the functions conferred or imposed on the Valuer-General by or under this or any other Act or law, other than this power of delegation.

**Explanatory note**

This item sets out the general role of the Valuer-General, with particular emphasis on the regulatory nature of the office.

**[5] Section 9**

Omit the section. Insert instead:

**9 Functions of Valuer-General**

- (1) The functions of the Valuer-General include the following:
  - (a) to establish and maintain valuation rolls and lists under this Act, and for this purpose to maintain such databases as the Valuer-General thinks appropriate,

- (b) to enter valuations on such rolls, lists and databases on the basis of valuation recommendations made under this Act,
  - (c) to enter into, manage and monitor valuation service contracts,
  - (d) to make valuations of land as required by or under this or any other Act,
  - (e) to deal with objections and appeals against valuations under this Act.
- (2) The Valuer-General may, on behalf of the Crown, enter into contracts in connection with the exercise of the functions of the Valuer-General. Nothing in this subsection affects any other power to enter into contracts.

**Explanatory note**

This item sets out the principal functions of the Valuer-General, with particular reference to functions relevant to the contracting out of the provision of valuation services.

**[6] Section 10**

Omit the section. Insert instead:

**10 Staff of Valuer-General's Office**

Such staff as may be necessary to assist the Valuer-General in exercising the functions of the Valuer-General may be employed under the *Public Sector Management Act 1988*.

**Explanatory note**

This item updates a provision with respect to the appointment of staff. It also omits references to the appointment of "official valuers".

**[7] Section 11 Disclosure and misuse of certain information**

Insert after section 11 (2) (before the penalty):

- (3) The following persons, namely:
  - (a) contract valuers,
  - (b) directors of corporations that are contract valuers,
  - (c) officers, employees and agents of contract valuers,

are, for the purposes of this section, taken to be involved in the administration or execution of this Act. Accordingly, they are persons to whom subsections (1) and (2) apply.

**Explanatory note**

This item ensures that the secrecy provisions of the Act extend to contract valuers and their staff.

**[8] Part 1 A, sections 13A–136**

Insert after Part 1:

**Part 1 A      Contract valuers**

**13A Valuation service contracts**

- (1) The Valuer-General may negotiate and enter into valuation service contracts for the provision of valuation services to the Valuer-General.
- (2) Without limiting the terms and conditions of valuation service contracts, such contracts may regulate the manner in which valuation services are to be carried out. In particular, such contracts may contain provisions:
  - (a) setting out the principles and methods according to which the valuation services are to be carried out,
  - (b) establishing performance indicators to assist with assessing the effectiveness and efficiency of the valuation services that have been carried out,
  - (c) prescribing the qualifications of persons (including contract valuers and employees or agents of contract valuers) who may exercise specified functions,
  - (d) identifying persons (including contract valuers and employees or agents of contract valuers) who may or may not exercise specified functions,
  - (e) regulating the manner in which specified functions are to be exercised,
  - (f) imposing restrictions on the exercise of specified functions,

- (g) authorising contract valuers to exercise functions or discretions that expressly or impliedly belong to the Valuer-General,
  - (h) setting out the obligations of contract valuers to provide assistance to the Valuer-General in dealing with objections under Part 3, defending appeals under Part 4 and exercising functions under Part 5.
- (3) Contract valuers are not agents of and do not represent the Valuer-General, except where expressly provided by or under this or any other Act or by the terms of the relevant valuation service contract.

### **13B Kinds of contracts**

Valuation service contracts are of two kinds, as follows:

- (a) contested contracts, being contracts contested through open tender, and
- (b) uncontested contracts, being contracts that are not contested through open tender.

### **13C Contested contracts**

- (1) The Minister may, by order in writing, direct the Valuer-General to invite tenders for contested valuation service contracts for the provision of valuation services:
  - (a) in specified parts of the State, or
  - (b) for specified purposes, or
  - (c) for specified purposes in specified parts of the State.
- (2) The Valuer-General is required to comply with a direction under subsection (1). However, any failure to do so does not invalidate anything done or omitted to be done under or for the purposes of this or any other Act or law.
- (3) Any qualified person may submit tenders for contested valuation service contracts.



- (4) In this section, *qualified person* means:
- (a) a person who is registered as a practising real estate valuer, or
  - (b) a corporation in respect of which at least one of its directors or employees is registered as a practising real estate valuer,

within the meaning of the *Valuers Registration Act 1975*, and includes the State Valuation Office and any other public agency within which persons who are registered as practising real estate valuers are employed.

#### **13D Uncontested contracts**

The Valuer-General may negotiate and enter into uncontested valuation service contracts with the State Valuation Office for the provision of

- (a) valuation services not covered by a direction under section 13C, and
- (b) valuation services for which there are no successful tenderers under section 13C.

#### **13E Termination of contracts**

The Valuer-General may terminate a valuation service contract at any time, subject only to the terms of the contract.

#### **13F Monitoring of contract valuers**

The Valuer-General is required:

- (a) to monitor the standard of valuation services provided under valuation service contracts, and
- (b) to make assessments (on a sample basis or otherwise) of the compliance by contract valuers with procedural and other requirements of this Act, the regulations and the applicable valuation service contracts.

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### **13G Provisions relating to State Valuation Office**

- (1) The State Valuation Office may enter into contested and uncontested valuation service contracts with the Valuer-General.
- (2) The Director-General may enter into contracts, and do anything else, on behalf of the State Valuation Office for the purposes of this Act.
- (3) The Director-General may delegate his or her functions under this section, other than this power of delegation, to any public servant employed within the State Valuation Office.
- (4) Nothing in this section affects any other power to enter into contracts or do anything else.

#### **Explanatory note**

This item inserts a new Part 1A into the Act to enable valuation services to be provided by contract valuers. The Valuer-General is to be empowered to enter into valuation service contracts (proposed section 13A), which are to be “contested” or “uncontested” (proposed section 13B). The matters for which contested contracts will be required are to be set by Ministerial directions (proposed section 13C). Those contracts will be put up for tender. The remaining matters, and matters for which there are no successful tenders, will be able to be provided under uncontested contracts (proposed section 13D). The Valuer-General will be able to terminate a valuation service contract at any time, subject only to the terms of the contract (proposed section 13E). The Valuer-General will be required to monitor the performance of valuation service contracts (proposed section 13F). The State Valuation Office will be able to enter valuation service contracts through the agency of the Director-General of the Department of Land and Water Conservation (proposed section 13G).

### **[9] Section 14A Date at which certain values to be determined**

Omit “land or stratum for the purposes of section 70, or to the valuation of an” from section 14A (6).

Insert instead “*land*”.

#### **Explanatory note**

This item is consequential on the proposed repeal of section 70 and the transfer of its provisions to section 20.

**[10] Section 14B**

Insert after section 14A:

**14B Recommendations for valuations**

- (1) Any valuation for which the Valuer-General is required under section 13C to invite tenders for contested valuation service contracts must, and any other valuation under this Act may, be made by the Valuer-General on the recommendation of a contract valuer.
- (2) For the purpose of formulating recommendations in connection with a valuation, a contract valuer may exercise any relevant functions or discretions that expressly or impliedly belong to the Valuer-General and:
  - (a) that are specifically authorised by the relevant valuation service contract to be exercised by the contract valuer, or
  - (b) that, although not so specifically authorised, are ancillary to or otherwise relate to the making of the valuation.

This subsection has effect subject to the valuation service contract.

- (3) The Valuer-General may make a valuation on the basis of such a recommendation:
  - (a) without independently exercising relevant functions or discretions referred to in subsection (2), and
  - (b) without independently assessing the accuracy of the recommendation.
- (4) Without limiting section 13F, the Valuer-General is to monitor and make general assessments of the standards of accuracy of recommendations.
- (5) The Valuer-General may request that a recommendation be revised by the contract valuer who prepared it.

- (6) If a contract valuer under a contested valuation service contract:
- (a) fails to make a recommendation in respect of a valuation or class of valuations to which the contract applies, or
  - (b) fails to revise a recommendation, in respect of a valuation or class of valuations to which the contract applies, in accordance with a request under subsection (5),
- the Valuer-General may make the valuation or valuations concerned without the need for such a recommendation.
- (7) Alternatively, the Valuer-General may negotiate and enter into an uncontested valuation service contract with some other contract valuer to provide the relevant recommendations.

**Explanatory note**

This item provides for the Valuer-General to make valuations of land on the basis of valuation recommendations provided by contract valuers. In the case of valuations the subject of a direction under proposed section 13C (Contested contracts), such a recommendation will be mandatory. A contract valuer will be able to exercise the functions conferred on the Valuer-General in relation to the valuation of land (such as the power to enter land and to demand information relevant to the valuation of the land). In the event that a contract valuer fails to provide a valuation recommendation, or fails to revise a valuation recommendation in accordance with the Valuer-General's request, the Valuer-General will be able to make the relevant valuation without the need for a recommendation.

**[11] Section 15 Forms to be sent out by Valuer-General**

Omit section 15 (1) and (2). Insert instead:

- (1) The Valuer-General may send:
- (a) to any person who is the owner of any land in respect of which the Valuer-General proposes to make a valuation, or
  - (b) if the owner is not resident in the State, to any person who is the agent or attorney of the owner,
- a form to be filled in and returned to the Valuer-General within a time specified by the Valuer-General in the form.

- (2) Such a form may contain such questions as the Valuer-General considers appropriate to facilitate the making of a valuation of the land concerned, such as questions relating to:
  - (a) the area, situation or quality of the land, or
  - (b) the purpose for which the land is being used, or
  - (c) the nature of any improvements on the land, or
  - (d) the existence of any tenancies to which the land, or any stratum of the land, is subject.
- (2A) For the purpose of enabling a contract valuer to exercise the Valuer-General's functions under this section in accordance with section 14B (2):
  - (a) the references to the Valuer-General in subsection (1) (but not subsection (2)) are taken to be references to the contract valuer, and
  - (b) the references to the making of a valuation in subsections (1) and (2) are taken to be references to the making of a valuation recommendation.

**Explanatory note**

This item will allow contract valuers to send out advance notice of a proposed valuation, and will make the sending out of such a notice discretionary, rather than mandatory.

**[12] Section 15A Production of documents to Valuer-General**

Omit section 15A (1) and (3). Insert instead:

- (1) The Valuer-General may, by notice in writing served:
  - (a) on any person who is the owner of any land or stratum, or
  - (b) if the owner is not resident in the State, on any person who is the agent or attorney of the owner,require the person to produce to the Valuer-General, within a time specified by the Valuer-General in the notice, such documents relating to the land or stratum as

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may be required by the Valuer-General for the purposes of this Act and as may be specified in the notice, whether generally or otherwise.

**Explanatory note**

This item merely revises the wording of section 15A in line with the proposed amendments to section 15.

**[13] Section 18 When valuation effective**

Omit “or 70” from section 18 (1).  
Insert instead “or 20 (3) (b)”.

**Explanatory note**

This item is consequential on the proposed repeal of section 70 and the transfer of its provisions to section 20.

**[14] Section 20 Valuation on application**

Omit “prescribed fee” wherever occurring from section 20 (1) and (2).  
Insert instead “fee determined by the Valuer-General”.

**Explanatory note**

This item will allow fees to be determined by the Valuer-General rather than, as is presently the case, by the regulations under the Act.

**[15] Section 20 (1) and (2)**

Omit “new” wherever occurring.

**Explanatory note**

This item is consequential on the proposed extension of section 20 to valuations previously conducted under section 70.

**[16] Section 20 (1) and (2)**

Omit “; and in any such case the new valuation shall be entered in the valuation roll” wherever occurring.

**Explanatory note**

This item is consequential on proposed section 20 (3) and (4).

**[17] Section 20 (3) and (4)**

Insert after section 20 (2):

- (3) A notice under this section may require the Valuer-General to make a valuation of the land:
  - (a) as at the date of the valuation, or
  - (b) as at any specified date occurring before the date of the valuation.
- (4) If the notice requires the Valuer-General to make a valuation of the land as at the date of the valuation, the Valuer-General is to enter the valuation in the valuation roll.

**Explanatory note**

This item is consequential on the proposed extension of section 20 to valuations previously conducted under section 70.

**[18] Section 61 Valuations to be used as basis of rates, taxes and duties**

Omit “in pursuance of section 70”.

Insert instead “in accordance with section 20 (3) (b)”.

**Explanatory note**

This item is consequential on the proposed repeal of section 70 and the transfer of its provisions to section 20.

**[19] Section 70**

Omit the section.

**Explanatory note**

This item repeals a provision dealing with the retrospective valuation of land. The retrospective valuation of land is proposed to be dealt with by section 20 along with other “one off” valuations.

**[20] Section 74 Power of entry**

Omit “The Valuer-General or official valuer or a Judge or assessor of the Land and Environment Court” from section 74 (1).

Insert instead “An authorised person”.

**Explanatory note**

This item is one of a series that will allow the powers exercisable under section 74 to be exercised by contract valuers and their staff.

**[21] Section 74 (1)**

Omit “Valuer-General, official valuer, Judge or assessor”.  
Insert instead “authorised person”.

**Explanatory note**

This item is one of a series that will allow the powers exercisable under section 74 to be exercised by contract valuers and their staff.

**[22] Section 74 (3)**

Insert after section 74 (2):

(3) In this section:

*authorised person* means:

- (a) the Valuer-General, or
- (b) a member of the staff of the Valuer-General authorised in writing by the Valuer-General, or
- (c) a person who is:
  - (i) a contract valuer, or
  - (ii) a director of a corporation that is a contract valuer, or
  - (iii) an employee or agent of a contract valuer, if authorised by or in accordance with the relevant valuation service contract, or
- (d) a Judge or assessor of the Land and Environment court.

**Explanatory note**

This item is one of a series that will allow the powers exercisable under section 74 to be exercised by contract valuers and their staff.

**[23] Section 75 Penalty for refusing information**

Omit “the Valuer-General, official valuer, or any officer”.  
Insert instead “an authorised person”.

**Explanatory note**

This item is consequential on the proposed amendments to section 74.



**[24] Section 75 (2)**

Insert at the end of section 75:

(2) In this section:

*authorised person* means:

- (a) the Valuer-General, or
- (b) a member of the staff of the Valuer-General, or
- (c) a person who is:
  - (i) a contract valuer, or
  - (ii) a director of a corporation that is a contract valuer, or
  - (iii) an employee or agent of a contract valuer, to the extent (if any) to which the relevant valuation service contract provides that subsection (1) is applicable, or
- (d) a Judge or assessor of the Land and Environment Court when exercising functions under section 74.

**Explanatory note**

This item is consequential on the proposed amendments to section 74.

**[25] Section 76 Copies of entries to be supplied**

Omit “prescribed fee” from section 76(1).

Insert instead “fee determined by the Valuer-General”.

**Explanatory note**

This item will allow fees to be determined by the Valuer-General rather than, as is presently the case, by the regulations under the Act.

**[26] Section 76 (1)**

Omit “or section 70”.

**Explanatory note**

This item is consequential on the proposed repeal of section 70 and the transfer of its provisions to section 20.

**[27] Section 76 (1A)**

Omit “, but is not to exceed the fee prescribed for supplying a full entry in the valuation roll”.

**Explanatory note**

This item is consequential on the proposed abolition of prescribed fees.

**[28] Section 81 Regulations**

Omit “and official valuers and persons appointed under this Act” from section 81 (1) (a).

Insert instead “, members of the Valuer-General’s staff, members of the staff of the State Valuation Office, contract valuers and directors, officers, employees and agents of contract valuers”.

**Explanatory note**

This item is consequential on the proposed abolition of official valuers and the proposed conferral of functions on contract valuers.

**[29] Section 81 (1) (h)**

Insert after section 81 (1) (g):

- (h) Regulating valuation service contracts, including:
  - (i) regulating the matters that may or are to be the subject of valuation service contracts, and
  - (ii) regulating the process of inviting, receiving, assessing and accepting tenders for contested valuation service contracts.

**Explanatory note**

This item will enable the regulations to make provision with respect to the formation and performance of valuation service contracts.

**[30] Section 83**

Omit the section. Insert instead:

**83 Savings, transitional and other provisions**

Schedule 2 has effect.

**Explanatory note**

This item repeals an unnecessary provision and replaces it with a provision that gives effect to proposed Schedule 2.

**[31] Schedule 1 Provisions relating to the Valuer-General**

Insert at the end of clause 9:

- (2) A contract valuer who exercises functions under this Act pursuant to a valuation service contract is not to be taken to be doing so as a delegate of, or under the direction of, the Valuer-General unless the valuation service contract expressly so provides.

**Explanatory note**

This item will ensure that contract valuers do not gain the protection of a provision that protects the Valuer-General from personal liability.

**[32] Schedule 2**

Insert after Schedule 1:

**Schedule 2 Savings, transitional and other provisions**

(Section 83)

**Part 1 Preliminary**

**1 Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

*Valuation of Land Further Amendment Act 1996*

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**Part 2 Provisions consequent on enactment of  
Valuation of Land Further Amendment Act  
1996**

**2 Existing valuations**

Section 14B (2) has effect with respect to valuations to be made after the commencement of section 14B, except where the processes involved in making a valuation had started before that commencement.

**Explanatory note**

This item makes provisions of a savings or transitional nature in connection with the enactment of the proposed Act, and allows the regulations to make further provision of a savings or transitional nature as a consequence of its enactment.

## **Schedule 2 Amendment of other Acts and instruments**

(Section 4)

### **2.1 Land Development Contribution Management Act 1970 No 22**

#### **Section 40 Valuer-General to make base date valuations**

Omit “, an official valuer, or an officer appointed under the *Valuation of Land Act 1916*,” from section 40 (2).

#### **Explanatory note**

This item is consequential on the proposed abolition of official valuers.

### **2.2 Valuation of Land Regulation 1996**

#### **[1] Clauses 5 and 6**

Omit the clauses.

#### **Explanatory note**

This item is consequential on the proposed abolition of prescribed fees under the *Valuation of Land Act 1916*.

#### **[2] Clause 8 Lodgment of objections: sections 29 and 31**

Omit “42” from clause 8 (1) (a). Insert instead

#### **Explanatory note**

This item will extend from 42 to 60 days the time within which a public taxing or rating authority may object to a valuation.

**[3] Schedule 2**

Omit the Schedule.

**Explanatory note**

This item is consequential on the proposed abolition of prescribed fees under the *Valuation of Land Act 1916*.

[Minister's second reading speech made in—  
Legislative Assembly on 13 November 1996  
Legislative Council on 4 December 1996]